REMARKS

The Assignees of this application have requested that the firm of Marshall, Gerstein & Borun take responsibility for the case. It is expected that appropriate Power of Attorney documents will be filed in the future.

A. Status of the claims

Claims 4-8, 11-13, 15, 17, 24-28, 31-33 and 35 are amended, new claims 61-63 are added and claims 1-3, 9-10, 18-19, 43 and 45 were previously canceled. Thus, claims 4-8, 11-17, 20-42, 44 and 46-63 are currently pending and under examination. The amendment to claims 4-8, 11-13, 15, 17, 24-28, 31-33 and 35 are to improve language clarity and not for reasons related to patentability. Support for new claim 61 can be found at least on page 63, lines 14-20, of the specification. Support for new claims 62 and 63 can be found at least on page 67, lines 28-30, of the specification. No new matter has bee added.

B. Response to requirement for further election of species

In response to the restriction requirement dated April 1, 2008, Applicants previously elected, "Group V" claims concerning pharmaceutical compositions comprising β-amino acid substituted peptides. By virtue of Applicants' amendment filed October 1, 2008, all of claims 49-60 (and now 61-63), directed to peptides and compositions comprising such peptides are understood as belonging to elected Group V. Moreover, Applicants traversed the election of species requirements because the requirement was unclear and did not identify "species." Rather, the requirement appears to specify properties (*e.g.*, agonism/.antagonism; MHC class I/class II; size; conditions to be treated) which are not necessarily mutually exclusive and which are themselves genera. Nonetheless, to the extent that the claims comprise electable species identified by the Examiner, Applicants elected the following: peptides that induce agonism; that comprise substitutions in the MHC anchor residue; peptides having a length of 2-50 amino acid residues; a response that comprises induction of polyclonal T cells; a condition that comprising a tumor and a peptide that is a tumor derived peptide; and a peptide that is a MHC class I peptide and the T cell is a $CD8^+$ T cell.

In the new Action, mailed on December 6, 2008, the Examiner imposed the following additional "election of species" requirements:

(1) election of a tumor-derived peptide from one of the proteins recited in claim 12 or 52;

(2) election of a "base" peptide that is one of the peptides identified by sequence listing number (SEQ ID NO) listed in claim 54;

(3) a β-amino acid substitution at a specific anchor residue;

(4) election of whether the beta-amino acid substituted peptide is bound or not bound in an MHC-peptide complex; and

(5) election of whether or not the composition further comprises a non-substituted form of the beta-amino acid substituted peptide.

In response, Applicants traverse the requirement because the newly identified aspects of the claims do not impose a significant search and examination burden on the Examiner. For example, the sequences recited in claim 54 (see election group 2), while distinct, share a common sequence element "SLLMWIT" and there would be no added burden in searching and examining the claim with respect to all identified MHC epitope sequences. Nonetheless, in order to provide a complete response to the Action, Applicants elect the following: (1) peptides wherein the tumor derived peptide is from NY-ESO; (2) wherein the MHC epitope is SLLMWITQC (SEQ ID NO: 10); (3) wherein the β-amino acid substitution comprises a substitution at the Cys residue; (4) wherein the peptide is not bound to MHC; and (5) wherein the composition does not comprise a non-substituted form of the peptide. Thus, claims 4-8, 11-12, 17, 44, 49-54, 57 and 61-63 read on elected species. Applicants understand that generic claims will be considered with respect to each "species" election.

C. Conclusion

In view of the above election, Applicants believes the pending application is in condition for examination and allowance. The Examiner is invited to contact David Gass or the undersigned with any questions or concerns.

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Respectfully submitted,

By _____

Marshall P. Byrd
Registration No.: 62,454
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Agent for Applicants